

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number <b>Q77726</b>	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number	Filed	
	10/671,463	September 29, 2003	
	First Named Inventor		
	Hidehiko FUJIWARA		
	Art Unit	Examiner	
	2435	April Ying SHAN	
<p style="text-align: center;">WASHINGTON OFFICE <b>23373</b> CUSTOMER NUMBER</p>			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal</p> <p>The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p><input checked="" type="checkbox"/> I am an attorney or agent of record.</p> <p>Registration number <u>62,474</u></p> <p style="text-align: right;"><u>/ Rohit K. Krishna /</u> Signature</p> <p style="text-align: right;"><u>Rohit K. Krishna</u> Typed or printed name</p> <p style="text-align: right;"><u>(202) 293-7060</u> Telephone number</p> <p style="text-align: right;"><u>April 13, 2009</u> Date</p>			

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q77726

Hidehiko FUJIWARA, et al.

Appln. No.: 10/671,463

Group Art Unit: 2435

Confirmation No.: 7948

Examiner: April Ying SHAN

Filed: September 29, 2003

For: INTERNET CONNECTION SERVICE PROVIDING METHOD AND SYSTEM

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 12, 2008, Applicant files this Pre-Appeal Brief Request for Review. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 1, 3, 6-7, 15-17, 19, 22-23 and 32 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takada et al. (U.S. Publication No. 2002/0089931; hereinafter "Takada") in view of Jun (Japanese Patent Laid-open 2001-266018; hereinafter "Jun"). Claims 2 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takada in view of Jun, and further in view of De Cnodder et al. (U.S. Publication No. 2003/0048791; hereinafter "De Cnodder"). Claims 8-11, 13-14 and 24-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Takada in view of Jun, and further in view of Hou (JP 2001-111727A; hereinafter "Hou").

Claim 31 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Takada in view of Jun, and further in view of Kawano (Japanese Patent Laid-open 2001-298484; hereinafter “Kawano”).

Independent claim 1 recites an internet connection service providing method, comprising:

    presetting a service class, among a plurality of service classes, for a user, wherein said service class is selected by the user,  
    authenticating said user, when logging-in to a network, according to said preset service class for said user,  
    recognizing said preset service class for said user, and providing a service, corresponding to the recognized service class, to said user,  
    wherein advertisement data, which have been preliminarily received from an advertisement requester and accumulated, are distributed to said user in correspondence to said service class.

The Examiner acknowledges that Takada fails to teach or suggest advertisement data, which have been preliminarily received from an advertisement requester and accumulated, and are distributed to said user in correspondence to said service class. Instead, the Examiner relies on Jun as allegedly addressing this deficiency of Takada. Specifically, the Examiner asserts that “this well known feature of advertisement data which have been preliminarily received from an advertisement requestor and accumulated are distributed to said users in correspondence to said service class is disclosed in Jun (e.g. ‘it connected with...**while generating said service information based on said customer information memorized beforehand and transmitting said service information to said consumer premise equipment**’ - e.g. claim 12 and par. [0030]-[0032])” (Office Action, pages 5-6).

In paragraph 30, Jun discloses that the server 32, for vendors, has a hard disk storage 327 in which various processing programs are stored, “such as data, such as each vender’s Q original

advertising information, and an information offer processing program for transmitting the predetermined information and the various predetermined messages of goods to Customer P according to the demand from a consumer premises equipment 2". Jun further discloses that "Vendor Q set up before hand the content of the services offered for every customer ID and attribute information transmitted from the consumer premises equipment 2 of the customer P" (paragraph 32). Although The Examiner seems to be asserting that since Jun discloses setting up the content of services beforehand, for every customer ID, and also discloses transmitting predetermined information such as advertising information to a customer, Jun therefore discloses setting up advertisement data for every customer ID. Assuming, *arguendo*, that the Examiner's interpretation is correct, Jun still fails to teach or suggest distributing advertisement data in correspondence with *a service class*, as required by claim 1.

The Examiner instead asserts that "[it] would have been obvious to a person of ordinary skill in the art at the time of the invention that Jun's customer information can include Takada et al.'s user service class information and incorporating Jun's advertisement data which have been preliminarily received from an advertisement requestor and accumulated are distributed to said users in correspondence to said service class into Takada et al. motivated by increasing an opportunity to supply the advertisement of own goods to a customer according to a demand of a customer (Jun, par. [0030] and [0032])" (Office Action, page 6). Takada is directed toward "a flow controlling apparatus provided in a node that accesses a packet routing network... performing a rate-based congestion control on packets... as well as performing buffer management on buffers corresponding to the respective classes of such packets" (paragraph 2). Specifically, Takada discloses a DS type service class where packets supplied beyond the

transmission bandwidth are discarded, a TS type service class where a minimum bandwidth is assured and excess bandwidth is assigned as appropriate, and a BE type service class where a service is provided if bandwidth exists but a transmission bandwidth, delay time or quality are not assured (paragraphs 7-9). When the advertisement data of Jun is delivered to a customer of a customer ID, the advertisement data is delivered over some network. Combining the teachings of Takada and Jun would merely result in the advertisement data of Jun being delivered to a customer corresponding to each customer ID over either a DS type service class network, TS type service class network, or BE type service class network. However employing different service class networks would not increase an opportunity to supply an advertisement as asserted by the Examiner. Logically, regardless of how the advertisement data is received by the customer, as long as the customer receives the data, the network used makes no difference. Neither Takada nor Jun support the Examiner's alleged motivation to combine. The only possible motivation for the Examiner's proposed modification of Takada and Jun is the Applicant's own disclosure, the reliance on which constitutes impermissible hindsight reconstruction under MPEP §2143 (see also *In re Vaeck*, 20 USPQ 1438 (Fed. Cir. 1991)).

In the Advisory Action dated March 26, 2009, the Examiner does not seem to have considered our argument, and merely issues a blanket statement that a person with ordinary skill in the art "will easily recognize that the method/system recited in claims 1 and 17 are merely 'The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.' KSR at 1739," (Advisory Action continuation sheet pages 2-3).

Accordingly, Applicant respectfully maintains that claim 1 is patentable over the applied references. Additionally, claim 17 recites one or more features analogous to those discussed above with respect to claim 1, and is therefore patentable at least for reasons analogous to those given above with respect to claim 1. Applicant further maintains that claims 2-3, 6-11 and 13-16 are patentable at least by virtue of their dependency on claim 1, and claims 18-19 and 22-32 are patentable at least by virtue of their dependency on claim 17.

Respectfully submitted,

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Date: April 13, 2009